

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

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|------------------------------|---|--------------------------------|
| THEODORE ROGERS, JR., |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | CIVIL NO. 09-cv-785-MJR |
| |) | |
| NEDRA CHANDLER, |) | |
| |) | |
| Respondent. |) | |

MEMORANDUM AND ORDER

REAGAN, District Judge:

Petitioner Theodore Rogers, Jr., filed this action pursuant to 28 U.S.C. § 2254 to challenge his conviction on two counts of armed robbery in St. Clair County, Illinois. Shortly thereafter, Rogers filed a motion to stay (Doc. 5). In this motion, he acknowledges that he has not yet sought nor received leave from the Seventh Circuit Court of Appeals to file a second or success habeas corpus petition. Thus, Rogers asks the Court to stay these proceedings until such permission is granted.

The statute provides that “**[b]efore a second or successive application permitted by this section is filed in the district court**, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A) (emphasis added). Because Rogers did not obtain permission from the Seventh Circuit Court of Appeals **before** he filed the instant § 2254 application in this Court, the Court lacks authority to grant Rogers the relief he seeks.

Thus, the motion to stay is **DENIED**, and this action is **DISMISSED**. Dismissal is without prejudice to Rogers filing a new § 2254 petition, but only after he has obtained proper authorization to do so from the Seventh Circuit Court of Appeals. All other pending motions are now **MOOT**.

IT IS SO ORDERED.

DATED this 22nd day of April, 2010.

s/ Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge